

REMARKS/ARGUMENTS

1.) Claim Rejections – 35 U.S.C. §102(e)

The Examiner has maintained the rejection of claims 1-11 as being anticipated by Van Rensburg, *et al.* (US 2003/0004891 A1). The Applicant traverses the rejections.

First, it is to be remembered that anticipation requires that the disclosure of a single piece of prior art reveals **every** element, or limitation, of a claimed invention. Furthermore, the limitations that must be met by an anticipatory reference are those set forth in each statement of function in a claims limitation, and such a limitation cannot be met by an element in a reference that performs a different function, even though it may be part of a device embodying the same general overall concept. Whereas Van Rensburg fails to anticipate each and every limitation of claim 1, **performed in the sequence recited therein**, claim 1 is not anticipated thereby.

Claim 1 recites:

1. A method for performing secure electronic transactions using a wireless telephony system, said method comprising the steps of:

receiving a request for an electronic transaction at a vendor system, said request including a telephone number associated with a wireless telephone;

transmitting, in response to receipt of said request for an electronic transaction, a request for authorization from said vendor system to a transaction authorization system;

transmitting, in response to receipt of said request for authorization, a request for confirmation from said transaction authorization system to a messaging system associated with said wireless telephony system, said messaging system transmitting, in response to receipt of said request for confirmation, a message to said wireless telephone associated with said telephone number, said message including a request for a user of said mobile device to send a reply to said message to confirm said request for an electronic transaction;

receiving at said transaction authorization system a reply to said message from said mobile device;

determining, from the content of said reply, whether a user of said mobile device has confirmed said electronic transaction; and

transmitting, in response to a confirmation of said electronic transaction, a transaction authorization message from said transaction authorization system to said vendor system; and

completing, in response to receiving said transaction authorization message, said electronic transaction at said vendor system. (emphasis added)

In rejecting Applicant's prior arguments, the Examiner focuses solely on the fact that Applicant stated that, according to his invention, a request for an electronic transaction is "**first**" sent to a vendor system, stating that such feature is not recited in the claims. **The Examiner has not only misread Applicant's claims, but also read Applicant's statement out of context.**

The Applicant's use of the word "first" was based on the fact that, according to Applicant's claimed invention, a request for an electronic transaction is sent to the vendor system **before** a request for authorization from the vendor system is transmitted to a transaction authorization system. This is true even though Applicant's "exact wording" of claim 1 does not recite the term "first" or "before." The first two limitations of claim 1 recited:

receiving a request for an electronic transaction at a vendor system, said request including a telephone number associated with a wireless telephone;
transmitting, **in response to receipt of said request for an electronic transaction**, a request for authorization from said vendor system to a transaction authorization system; (emphasis added).

Whereas the request for authorization is transmitted from the vendor system to a transaction authorization system, **in response to receipt of the request for an electronic transaction**, it is inherent that the request for an electronic transaction is first sent to a vendor system; *i.e.*, the request for electronic transaction must be sent **before** the vendor system can, in response to the receipt thereof, transmit a request for authorization to a transaction authorization system. The sequence of these steps alone is sufficient to distinguish Applicant's invention over the teachings of Rensburg.

As previously noted by Applicant, Van Rensburg discloses a system (see Figure 1) in which a mobile terminal 1 communicates directly with a "general computerized server (7)." (¶0062) The computerized server (7) **then communicates** with "participating banking institutions (15); **with vendors** (16); with merchants (17) . . . as

well as information services (18).” (¶0064; emphasis added) The computerized server (7) is:

“programmed to enable the debiting from a relevant data base record which has an adequate positive balance (or specially arranged credit facilities) to another data base record . . . Thus, a participating system member [*i.e.*, cellular telephone user] will operate the cellular telephone to select a desired transaction with a selected recipient [*e.g.*, a vendor] and in respect of an inputted amount and will then communicate with the computerized server. The computerized server will check that the PIN or other security signal is in order; will check that the necessary funds or credit facility is available; will check the validity of the identity of the selected recipient; and the program will then cause the server to transfer the relevant funds from the data base record of the instructing participating system member [*i.e.*, the cellular telephone user] to the data base record of a recipient [*e.g.*, the vendor] . . .” (¶0072)

Thus, it can be seen that, according to the teachings of Van Rensburg, a user of a mobile terminal instructs a computerized server to pay a vendor, wherein the instruction is sent directly from the mobile terminal to the computerized server, and not first to a vendor system. There is simply no teaching that a request for an electronic transaction is first sent to a vendor system, wherein the request includes the telephone number of a mobile terminal.

The Examiner also states, in response to Applicant’s arguments that Rensburg fails to show certain additional elements of the claimed invention, that the features upon which the Applicant relies are not recited in the rejected claims. In each case, the Examiner states that the Applicant’s arguments are “not directly [*sic*] to the exact wording” of the pending claims. The Examiner’s position is untenable. For example, the Examiner states: “that a vendor system transmits a request . . .” is not recited in the rejected claim(s). The Examiner, however, notes that in claim 1, the Applicant claims “transmitting, in response to receipt of said request for an electronic transaction, a request for authorization from said vendor system to a transaction authorization system.” (emphasis added). If the subordinate clause “in response to receipt of said request for an electronic transaction” is taken out of the claim element, it would read “transmitting a request for authorization from said vendor system . . .,” which is

linguistically identical to what the Examiner asserts the Applicant does not claim (*i.e.*, “a vendor system transmits a request”).

The Applicant agrees that the language used in the prior arguments may not be **the exact** words used in the claims. The language in Applicant's arguments, however, explain the operation of the claimed invention in a manner that clearly distinguishes the claim elements that are not disclosed by Rensburg. It is noted, moreover, that the Examiner's arguments, asserting that Rensburg discloses all elements of the claimed invention, **do not use the exact words of Applicant's claims.**

Thus, the Examiner has failed to establish that Rensburg anticipates claim 1. Furthermore, whereas claims 2-11 are dependent from claim 1, and include the limitations thereof, those claims are also not anticipated.

2.) Claim Rejections – 35 U.S.C. §103(a)

The Examiner rejected claims 12-22 as being unpatentable over Van Rensburg in view of Atkins, *et al.* (US 5,644,727). The Applicant traverses the rejections.

As established *supra*, Van Rensburg fails to anticipate claim 1 because it fails to teach the unique functions specified therein. Claim 12 recites analogous functions embodied in a system including certain conventional computer hardware. There are no teachings in Atkins that overcomes the deficiencies of Van Rensburg. Atkins also fails to teach a system wherein: 1) a request for an electronic transaction is sent to a vendor system, wherein the request includes the telephone number of a mobile terminal; 2) the vendor system **then** (*i.e.*, **after** receiving the request for an electronic transaction at the vendor system) transmits a request for authorization to a transaction authorization system, wherein the request for authorization includes the telephone number associated with a wireless telephone; 3) the transaction authorization system then transmits a request for confirmation to a messaging system associated with a wireless telephony system; 4) the wireless telephony system then transmits a message to the wireless telephone associated with the telephone number; 5) subsequently, when a reply to the message is received from the wireless telephone, the transaction authorization system

determines, from the content of the reply, whether a user of the wireless telephone has confirmed the electronic transaction; and 6) if so, the transaction authorization system transmits a transaction authorization message to the vendor system, which then completes the electronic transaction. Therefore, the Examiner has not established a *prima facie* case of obviousness of claim 12. Furthermore, whereas claims 13-22 are dependent from claim 12, and include the limitations thereof, those claims are also not obvious over Van Rensburg in view of Atkins.

CONCLUSION

In view of the foregoing remarks, the Applicant believes all of the claims currently pending in the Application to be in a condition for allowance. The Applicant, therefore, respectfully requests that the Examiner withdraw all rejections and issue a Notice of Allowance for claims 1-22.

The Applicant requests a telephonic interview if the Examiner has any questions or requires any additional information that would further or expedite the prosecution of the Application.

Respectfully submitted,

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